

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT CALVIN CHAPMAN,

Defendant-Appellant.

UNPUBLISHED

June 30, 2009

No. 284306

Wayne Circuit Court

LC No. 07-014002-FC

Before: Sawyer, P.J., and Murray and Stephens, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of carjacking, MCL 750.529a, and unarmed robbery, MCL 750.530. He was sentenced as a fourth habitual offender, MCL 769.12, to concurrent prison terms of 25 to 40 years for the carjacking conviction and 9 to 15 years for the robbery conviction. He appeals as of right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court erroneously determined that he was not entitled to credit against his sentences for time served because he committed the offenses while on parole. The issue of sentence credit under MCL 769.11b is one of statutory interpretation and is reviewed de novo on appeal. *People v Givans*, 227 Mich App 113, 124; 575 NW2d 84 (1997). But because defendant did not object at sentencing, this issue is unpreserved and is reviewed for plain error affecting defendant's substantial rights. *People v Meshell*, 265 Mich App 616, 638; 696 NW2d 754 (2005).

"Whenever any person is hereafter convicted of any crime within this state and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for such time served in jail prior to sentencing." MCL 769.11b. "MCL 769.11b provides that where a sentencing court has before it a convict who has served time in jail before sentencing because he or she could not afford or was denied bond, the court must credit that person with time served." *People v Stead*, 270 Mich App 550, 551; 716 NW2d 324 (2006).

The law is clear that "[w]hen a parolee is arrested for a new criminal offense, he is held on a parole detainer until he is convicted of that offense, and he is not entitled to credit for time served in jail on the sentence for the new offense." *People v Seiders*, 262 Mich App 702, 705;

686 NW2d 821 (2004). Rather, a parolee convicted of a new offense is entitled to have jail credit applied only to the sentence from which parole was granted. *Id.*; MCL 791.238(2). Credit is not available to a parolee for time spent in jail on a new offense because “bond is neither set nor denied when a defendant is held in jail on a parole detainer.” *Id.* at 707. Accord *People v Filip*, 278 Mich App 635, 640-642; 754 NW2d 660 (2008); *Stead, supra* at 551-552; *Meshell, supra* at 638-640. This is true even if the parolee has served his or her minimum sentence. *Filip, supra* at 642. The time served on the parole hold is credited against the sentence for which parole was granted, even if prison authorities abandon parole violation proceedings, in which case “the time served is essentially forfeited.” *Id.* (footnote omitted); *People v Stewart*, 203 Mich App 432, 433; 513 NW2d 147 (1994). To the extent that some unpublished decisions hold otherwise, we decline to follow them because they are not precedentially binding, MCR 7.215(C)(1), and they conflict with the published decisions cited above, which we are required to follow. MCR 7.215(J)(1).

Defendant also argues that the denial of sentence credit violates his constitutional due process and equal protection rights, as well as the constitutional prohibition against double jeopardy. For the reasons explained in *Stewart, supra* at 433-434, we disagree.

Affirmed.

/s/ David H. Sawyer
/s/ Christopher M. Murray
/s/ Cynthia Diane Stephens